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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).



Indonesia: unresolved enforced disappearances keep family members in the dark

1. The Asian Legal Resource Center (ALRC) wishes to draw the attention of the UN Human Rights Council to the problem of enforced disappearances in Indonesia. Although the Government of Indonesia has signed the International Convention for the Protection of All Persons from Enforced Disappearance, it has yet to ratify it. Various lobbies have been undertaken by local and international human rights organizations towards ratification, in order to strengthen national law enforcement and protect against involuntary disappearances.

2. Under Soeharto's administration, between 1966 and 1998, countless people became victims of enforced disappearances conducted by the military, police, intelligence agencies and other state apparatus. The families of these victims are still suffering today; over 17 years since Soeharto stepped down, their beloved remain missing. Moreover, most of the victims were the family breadwinners, or expected breadwinners. Their loss has thus left their families in poverty. Family members are getting older and sicker, with many of them already dead due to lack of health care access.

3. The estimated number of enforced disappearances in Indonesia is considerably high, as reported by several sources. According to a Komnas HAM report, there are 32,774 missing persons from the massacres that occurred between 1965 and 1966. Mysterious killings between 1982 and 1985 left 23 missing victims, according to the National Commission on Human Rights, while the Tanjung Priok massacre against the Muslim community in Jakarta in 1984 also left 23 persons missing. The 1989 massacre against the Muslim community in Talangsari Village, Lampung Province resulted in 88 missing victims, as per data of the Commission for Disappearances and Victims of Violence / KontraS. The Report of the Truth and Reconciliation Commission for East Timor states that between 1975-1999, around 18,600 persons in East Timor became victims of disappearance. Furthermore, data from the Forum Peduli Aceh / NGO Coalition in Aceh suggests that military operations in Aceh between 1989-1998 resulted in the disappearance of 1,935 persons. And, finally, 13 persons still remain missing in relation to student and pro-democracy activism in 1997-1998, as per the National Commission on Human Rights.

4. After Soeharto stepped down in 1998, successive governments made no significant effort to search for the missing persons or document the number of victims. Instead, enforced disappearances continued, as in the case of Mr. Aristoteles Masoka in 2001, and Mr. Dedek Khairuddin in 2013, as documented by KontraS. The Asian Human Rights Commission, sister organization of the ALRC, has documented and reported Dedek's disappearance to the UN Working Group on Enforced or Involuntary Disappearances [AHRC-UAC-045-2015]. None of the missing persons have been found, either alive or dead; their families remain in the dark, and continue to face uncertainty from both the circumstances and the justice system.

5. A positive action taken regarding enforced disappearances has been the comprehensive recommendations issued to the government on 28 September 2009 by the plenary session of the house of representatives (DPR RI) on the disappearance of pro-democracy activists in 1997-1998. The recommendations are that a presidential decree be issued to establish an ad hoc human rights court for the 1997-1998 disappearances, to establish a Commission on Disappeared Persons, to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and to provide compensation and rehabilitation to the families of the victims of enforced disappearances.

6. It is unfortunate that these recommendations were not implemented by the former government of President Susilo Bambang Yudhoyono (2004-2014). In its concluding observations on the initial report of Indonesia's compliance with the International Covenant on Civil and Political Rights, on 21 August 2013, the UN Human Rights Committee stated that Indonesia should, "as a matter of urgency, address the impasse between Komnas HAM (National Commission on Human Rights) and the Attorney General. It should expedite the establishment of such a Court to investigate cases of enforced disappearance committed between 1997 and 1998 as recommended by Komnas HAM and the Indonesian Parliament [...] and provide adequate redress to victims or members of their families."

7. Indonesia's present government also does not have any plans to work on the issue of disappearances. Moreover, the Indonesian Penal Code (KUHP) does not regulate and prosecute enforced disappearances. Although the revision of the KUHP is ongoing, the process has, so far, taken 10 years, with little results. This government apathy is paid for by family members of disappeared persons, who continue to face obstacles in dealing with administrative matters. Things like applying for bank loans and registering for marriages require a death certificate of the father, for instance. Disappeared persons do not get death certificates; the Government should at least issue these families a missing persons certificate so they may avoid such difficulties.

8. In light of the above, the Human Rights Council should urge the Indonesian government to:

- a) Immediately ratify the International Convention for the Protection of All Persons from Enforced Disappearance to protect citizens from the risk of involuntary disappearances;
 - b) Follow up the four recommendations of the House of Representatives to ensure that the families of victims obtain adequate remedy;
 - c) Fully support the National Commission on Human Rights to document, investigate, and report all cases of enforced disappearances occurring prior to Soeharto's administration up to the present. The Government must also ensure that all of its bodies, such as the Attorney General, Parliament, and others cooperate and support the effort to resolve disappearance cases;
 - d) Prioritize revision of the KUHP, uphold protection against involuntary disappearances will be strengthened, and ensure such crimes will be prosecuted and punished under the standards of fair trial.
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